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TEMPORARY ADMINISTRATIVE ORDER INCLUDING STATEMENT OF NEED & JUSTIFICATION

BHS 10-2018
CHAPTER 309
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: BEHAVIORAL HEALTH SERVICES

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending Rules to Support the Oregon Performance Plan Goal of Reducing SRTF Length of Stay

EFFECTIVE DATE: 05/01/2018 THROUGH 10/27/2018

AGENCY APPROVED DATE: 04/24/2018

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NEED FOR THE RULE(S):

The Division needs to amend these rules to support meeting Oregon Performance Plan goals of reducing length of stay in secure residential treatment facilities.

JUSTIFICATION OF TEMPORARY FILING:

Failure to act promptly could affect Oregon's ability to meet particular goals under the Oregon Performance Plan, thereby risking punitive action from the United States Department of Justice.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

AMEND: 309-035-0163

RULE TITLE: Admission to Program

RULE SUMMARY: The Division needs to amend these rules to support meeting Oregon Performance Plan goals of reducing length of stay in secure residential treatment facilities.

RULE TEXT:

- (1) The provider shall ensure the admission process includes the following:
 - (a) The provider shall specify in its admission policy and procedures the program staff responsible for each component of the admission information-gathering and decision-making process. The program shall allocate responsibilities to promote effective processing of referrals and admissions;
 - (b) The provider shall develop and implement admission policies and procedures that support a prospective individual's right to select and choose from available service settings when the individual meets medical necessity criteria;
 - (c) The provider shall support the individual's right to select a program by assisting the person-centered service plan coordinator in identifying and documenting program options in the person-centered service plan, including providing information regarding program services and rates; and
 - (d) The provider may close admissions to the program when accepting an additional prospective individual may cause

the program to exceed its reasonable waitlist. When admissions are closed, the provider is not required to accept referrals, conduct screenings, or evaluate admissions criteria as directed by these rules.

(2) Unless limited by contractual agreement with the Division or other Division-approved party, the program may accept referrals from a variety of sources.

(3) In accordance with ORS 179.505 and the 42 CFR, Part 2, the program shall obtain an authorization for the release of information for disclosure for any confidential information concerning a prospective individual.

(4) The provider shall consider an individual for admission without regard to race, color, sex or sexual orientation, except as may be limited by room arrangement, religion, creed, national origin, age, except under 18 years, familial status, marital status, source of income, or disability in addition to the mental health disorder.

(5) Prior to accepting an individual for admission to the program, the program administrator shall determine that the individual meets admission criteria including the following:

(a) The provider shall offer each individual referred for placement at the program an opportunity to participate in a screening interview prior to being accepted or denied placement at a program. The screening is intended to provide information about the program and the services available as well as to obtain information from the prospective individual, a relative, and agencies currently providing services to the individual sufficient to determine eligibility for admission and service needs; and

(b) The provider shall receive screening packets for each individual referred for placement. At a minimum, screening packets shall include:

(A) Written documentation that the prospective individual has or is suspected of having a mental health disorder;

(B) Background information including a mental health assessment, description of previous living arrangements, service history, behavioral issues, and service needs;

(C) Medical information including a brief history of any health conditions, documentation from a Licensed Medical Professional or other qualified health care professional of the individual's current physical condition, and a written record of any current or recommended medications, treatments, dietary specifications, and aids to physical functioning;

(D) Copies of documents or other documentation relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions;

(E) A copy of the prospective individual's most recent mental health treatment plan or in the case of an emergency or crisis-respite admission a summary of current mental health treatment involvement; and

(F) Documentation of the prospective individual's ability to evacuate the building consistent with the facility's designated evacuation capability and other concerns about potential safety risks.

(c) The provider shall ensure that screenings be conducted at the prospective program setting unless:

(A) Travel arrangements cannot be made due to inclement weather; or

(B) The individual or representative requests a phone screening or screening at the individual's current location.

(d) The provider shall contact the referring agency to schedule a screening appointment within 48 hours of receipt of the referral packet;

(e) The provider shall coordinate with the referring agency to schedule a screening appointment to occur within 14 calendar days from the date of receipt of the referral packet;

(f) The provider shall provide the following to each individual referred for placement:

(A) Materials explaining conditions of residency;

(B) Services available to individuals residing in the program; and

(C) An opportunity to meet with a prospective roommate if the program uses a shared room model.

(g) The screening meeting shall include the program administrator, the prospective individual, and the individual's representative. With the prospective individual's consent, the meeting may also include family members, other representatives as appropriate, representatives of relevant service-providing agencies, and others with an interest in the individual's admission.

(6) If an individual is referred for emergency or crisis-respite admission, an amended or abbreviated screening process may be used to more quickly meet the needs of individuals seeking placement. Screening and admission information

obtained may be less comprehensive than for regular admissions but shall be sufficient to determine that the individual meets admission criteria and that the setting and program is appropriate considering the individual's needs. The program shall document the reasons for incomplete information.

(7) Prior to admission, the provider shall evaluate and determine whether a prospective individual is eligible for admission based on the following criteria. The individual shall:

- (a) Be assessed to have a mental health disorder or a suspected mental health disorder;
- (b) Be at least 18 years of age;
- (c) Not require continuous nursing care unless a reasonable plan to provide the care exists, the need for residential treatment supersedes the need for nursing care, and the Division approves the placement;
- (d) Have evacuation capability consistent with the setting's SR occupancy classification; and
- (e) Meet additional criteria required or approved by the Division through contractual agreement or condition of licensing.
- (f) For Admission to an SRTF:
 - (A) Individual requires less than 24-hour Acute Hospital Care and Treatment;
 - (B) The individual requires supervision seven days a week, 24 hours a day to develop skills necessary for daily living, to assist with planning and arranging access to a range of educational, therapeutic and aftercare services, and to develop the adaptive and functional behavior that allows the individual to live outside of a subacute hospital setting;
 - (C) Recent Hospitalization or Significant Risk of Hospitalization;
 - (D) Documented clinical need for a setting that restricts egress and unrestricted community access;
 - (E) Clinical evidence that the individual would be at risk to self or others if they were not in this setting; or
 - (F) Because of the individual's mental illness, there is an inability to adequately care for one's physical needs, and caretakers/guardians are unable to safely fulfill those needs, representing potential serious harm to self;
 - (G) Failed placements in lower levels of care;
 - (H) Under civil commitment, PSRB, Aid and Assist, or guardianship;
 - (I) Requires highly structured supports and close supervision for ADL's, medication management, and supports;
 - (J) Requires highly structured supports and close supervision to maintain health and safety;
 - (K) As evidenced by one or more of the following in the past 30 days:
 - (i) Attempted suicide or engaged in intentional physical self-harming behaviors or substantial concern for suicidal ideation; or
 - (ii) Communicated a serious expression of intent to inflict bodily harm upon another person or physically assaulted another person due to the symptoms of a mental illness; or
 - (iii) Demonstrated an inability to care for their basic needs without substantial assistance and the lack of self-care abilities places that person at risk of developing or exacerbating a severe health condition; or
 - (L) Due to the symptoms of a mental illness, the person may not remain in a place of service for the time needed to receive the services and supports necessary to resolve the symptoms of a mental illness that pose a threat to the person's safety and well-being.
- (8) The provider may deny an individual admission to its program for the following reasons:
 - (a) Failure to meet admission criteria established by these rules;
 - (b) Inability to pay for services due to lack of presumed Medicaid eligibility or other funds;
 - (c) Documented instances of behaviors within the last 14 calendar days that would pose a reasonable and significant risk to the health, safety, and well-being of the individual or another individual, if the individual is admitted;
 - (d) Lack of availability of necessary services required to maintain the health and safety of the individual (no nursing, etc.) or lack of an opening at the setting; or
 - (e) The individual declines the offer for screening.
- (9) The provider may not deny an individual admission to its program as follows:
 - (a) Prior to offering a face-to-face screening or other screening process as allowed by these rules; or
 - (b) Due to county of origin, responsibility, or residency.

(10) The provider's admission decision shall be made as follows:

- (a) The program's decision shall be based on review of screening materials, information gathered during the face-to-face screening meeting, and evaluation of the admission criteria;
- (b) The program shall inform the prospective individual and the individual's representative of the admission decisions within 72 hours of the screening meeting;
- (c) When the program denies admission, the program shall inform the applicant, the individual's representative, and the referring entity in writing of the basis for the decision and the individual's right to appeal the decision;
- (d) When the program approves admission, the program shall inform the applicant, the individual's representative, and the referring entity through an acceptance notification that shall include:
 - (A) When not waitlisted or first on the waitlist, an estimated date of admission;
 - (B) When waitlisted, the number on the waitlist.

(11) Management of waitlists includes the following:

- (a) The program shall establish admission waitlists of reasonable length;
- (b) The program shall document actions taken in the management of the waitlist;
- (c) The program shall contact a waitlisted individual, the individual's representative, and the referring entity monthly to determine if the individual has been placed elsewhere;
- (d) The program shall prioritize admissions on a waitlist as follows:
 - (A) The program shall give first priority to those individuals under current civil commitment or under the jurisdiction of the Psychiatric Security Review Board and seeking to transition from the Oregon State Hospital or other hospital level of care into the community;
 - (B) The program shall give second priority for admission to individuals seeking admission to programs as an alternative to or to prevent civil commitment or placement at the Oregon State Hospital or for the purpose of transitioning from a program or a secure residential treatment facility;
 - (e) The program shall determine priority for admission based on the priorities described above and on a first-come first-served basis. The program may not consider the individual's county of origin, responsibility, or residency;
 - (f) Within 72 hours of a provider learning of a pending opening, the program shall notify the first individual on the waitlist, the individual's representative, and the referring entity of the expected opening. The individual shall respond within three business days of the provider's notification. If any of the following occurs, the program may offer the opening to the next individual on the wait list:
 - (A) The program receives no response from the individual, the individual's representative, or the referring entity within three business days;
 - (B) The individual will not be ready to transition into the program within one week; or
 - (C) The individual no longer desires placement at the program.
- (12) The program shall obtain informed consent for services from the individual or representative prior to admission to the program unless the individual's ability to consent is legally restricted.
- (13) Upon admission, the program administrator shall provide and document an orientation to each new individual that includes but is not limited to the following:
 - (a) A complete tour of the setting;
 - (b) Introductions to other individuals and program staff;
 - (c) Discussion of house rules;
 - (d) Explanation of the laundry and food service schedule and policies;
 - (e) Review of the individual's rights;
 - (f) Review of grievance procedures;
 - (g) Completion of a residency agreement;
 - (h) Discussion of the conditions under which residency would be terminated;
 - (i) General description of available services and activities;
 - (j) Review and explanation of advance directives. If the individual does not already have any advance directives, the

program shall provide an opportunity to complete advanced directives;

(k) Emergency procedures in accordance with OAR 309-035-0145(2);

(L) Review of the person-centered planning process; and

(m) Review of the process for imposing individually-based limitations on certain program obligations to the individual.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 443.450

STATUTES/OTHER IMPLEMENTED: ORS 413.032, ORS 443.400 - 443.465, ORS 443.991